

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

AME CHERIE THOMAS,	§	
	§	
Petitioner,	§	
	§	
V.	§	Civil Action No. 4:14-CV-310-Y
	§	
JODY R. UPTON, Warden,	§	
FMC-Carswell,	§	
	§	
Respondent.	§	

OPINION AND ORDER

Before the Court is a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 filed by Petitioner, Ame Cherie Thomas, a federal prisoner confined in FMC-Carswell at the time of filing, against Jody R. Upton, warden of FMC-Carswell, Respondent.

After having considered the pleadings and relief sought by Petitioner, the Court has concluded that the petition should be dismissed for mootness.

I. Factual and Procedural History

By this action, Petitioner challenges her 2011 conviction in the United States District Court for the Northern District of Alabama for aiding and abetting misuse of a social security number and aggravated identify theft and the conditions of her confinement at FMC-Carswell placing her "at high risk for death." (Pet. 5-6, ECF No. 2; Resp't's App. 1, ECF No. 11.) She seeks immediate release, home confinement, and a second opinion regarding her medical status. (Pet. 6-7, ECF No. 2.)

II. Discussion

As to her first claim, § 2241 is not the proper vehicle for bringing a challenge to her federal conviction. Instead, § 2255 provides the primary means of collaterally attacking a federal conviction or sentence.¹ *Padilla v. United States*, 416 F.3d 424, 425-26 (5th Cir. 2005). Nor is § 2241 the proper vehicle for challenging the conditions of her confinement. A *Bivens* complaint is the proper vehicle for an inmate to pursue a civil rights complaint against federal actors. *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971). Furthermore, Bureau of Prisons (BOP) records indicate that Petitioner was released from BOP custody on November 7, 2014. See U.S. Department of Justice, Federal Bureau of Prisons/Inmate Locator, available at <http://www.bop.gov>. As of this date, Petitioner has not notified the Court of her current whereabouts.

The Court finds Petitioner's claims are not cognizable in this habeas action and/or are rendered moot as a result of her release. Accordingly, dismissal of the petition for lack of subject matter jurisdiction and mootness is appropriate. See *McRae v. Hogan*, 576 F.2d 615, 616-17 (5th Cir. 1978).

For the reasons discussed, the Court DISMISSES Petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241

¹Federal prisoners may employ § 2241 to challenge their conviction or sentence only if they can satisfy the exception in the so-called "savings clause" under § 2255(e).

for lack of subject matter jurisdiction and mootness. A
certificate of appealability is DENIED.

SIGNED April 29, 2015.


TERRY R. MEANS
UNITED STATES DISTRICT JUDGE